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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Sudhindra P. Herle
Serial No.:	09/653,764
Filed:	September 1, 2000
For:	SYSTEM AND METHOD FOR SECURE OVER-THE-AIR ADMINISTRATION OF A WIRELESS MOBILE STATION
Group No.:	2134
Examiner:	Michael J. Simitoski

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Commissioner for Patents
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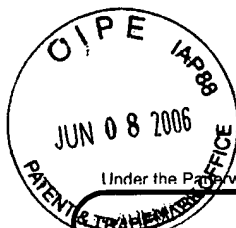
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FEE TRANSMITTAL
For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

Complete if Known	
Application Number	09/653,764
Filing Date	September 1, 2000
First Named Inventor	Sudhindra P. Herle
Examiner Name	Michael J. Simitoski
Art Unit	2134
Attorney Docket No.	2000.10.001.WT0 (SAMS01-00090)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	Small Entity Fee ($)	SEARCH FEES Fee ($)	Small Entity Fee ($)	EXAMINATION FEES Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)	Multiple Dependent Claims Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____ x	_____ =	_____	_____	_____

HP = highest number of total claims paid for, if greater than 20

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____ x	_____ =	_____

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
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4. OTHER FEE(S)

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Non-English Specification, $130 fee (no small entity discount)

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SUBMITTED BY			
Signature	*(John T. Mockler signature)*	Registration No. (Attorney/Agent) 39,775	Telephone 972-628-3600
Name (Print/Type)	John T. Mockler		Date 5 June 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sudhindra P. Herle

Serial No.:   09/653,764

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For: SYSTEM AND METHOD FOR SECURE OVER-THE-AIR
                                 ADMINISTRATION OF A WIRELESS MOBILE STATION

Group No.:   2134

Examiner: Michael J. Simitoski

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
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APPEAL BRIEF

Sir:

Applicant respectfully submits that the Examiner's decision of December 12, 2005, finally

rejecting Claims 1-24 in the present application, should be reversed, in view of the following

arguments and authorities. This Brief is submitted on behalf of Appellant for the application

identified above. A check is enclosed for the fee for filing a Brief on Appeal. Please charge any

additional necessary fees to Deposit Account No. 50-0208.   06/08/2006 NNGUYEN1 00000104 09653764
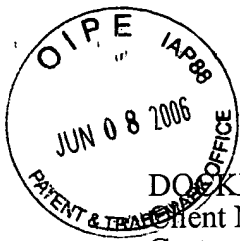   01 FC:1402   500.00 OP

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Real Party in Interest

The real party in interest, and assignee of this case, is Samsung Electronics Co., Ltd.

Related Appeals or Interferences

To the best knowledge and belief of the undersigned attorney, there are none.

Status of Claims

Claims 1-24 are under final rejection, and are each appealed. The claims as currently written are included in the Claims Appendix (Appendix A).

Status of Amendments after Final

No amendments to the claims were entered after final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The following summary refers to disclosed embodiments and their advantages, but does not delimit any of the claimed inventions.

In General

The present application is directed, in general, to a system and method in which a mobile station securely communicates with base stations in a wireless network and receives at least one of a software program, a software correction patch and provisioning data from a server in the wireless network. The secure communication is an over-the-air administration of a wireless mobile station via a base station in the wireless network. The mobile station includes a data burst message protocol controller. The data burst message protocol controller receives and converts the software program, software correction patch or provisioning data into at least one data message. The mobile station

also includes an encryption controller to convert the data burst message into a plurality of encrypted

IP packets. The mobile station further includes an RF transceiver to convert encrypted IP packets

into at least one wireless message and transmit the message to a wireless mobile station.

Support for Independent Claims

Note that, per 37 CFR §41.37, only each of the independent claims is discussed in this

section. In the arguments below, however, the dependent claims are also discussed and

distinguished from the prior art. The discussion of the claims is for illustrative purposes, and is not

intended to affect the scope of the claims.

Independent Claim 1

Independent Claim 1 describes a mobile station in a wireless network for receiving software

programs, a software correction patch and provisioning data from a server associated with the

wireless network. *Page 9, lines 4-8; Page 21, line 2-Page 23, line 10; Page 31, lines 4-10; Figure*

4; Figure 6.

The mobile station comprises an RF transceiver, an encryption controller and a data burst

message protocol controller. *Page 9, lines 8-17; Page 27, lines 16-21;* Figure 4.

The RF transceiver receives wireless messages from a plurality of base stations and converts

the messages to a plurality of Internet protocol (IP) packets. *Page 12, line 16 - Page 13, line 6; Page*

28, lines 3-16.

The encryption controller converts the IP packets from an encrypted format to a decrypted format by using at least IP Sec tunneling protocol, Secure Shell (SSH) tunneling protocol, Secure Sockets Layer/Transport Layer Security (SSL/TLS) or point-to-point tunneling protocol (PPTP). *Page 9, lines 13-15; Page 9, line18-Page 10, line 1; Page 24, line 2 - Page 26, line 4; Figure 6.*

The data burst message protocol controller converts the decrypted IP packets to a data burst message. *Page 9, lines 15-17; Page 28, line 17 - Page 29, line 4; Figure 4.*

Independent Claim 9

Independent Claim 9 describes a system for secure over-the-air administration of a wireless mobile station via a base station to transmit a software program, a software correction patch or provisioning data from a server to the mobile station. *Page 11, lines 2-8; Page 21, line 2-Page 23, line 10; Page 31, lines 4-10; Figure 4; Figure 6.*

The system comprises a data burst message protocol controller, an encryption controller and an RF transceiver. *Page 11, lines 8-17; Page 9, lines 8-17; Page 27, lines 16-21; Figure 4.*

The data burst message protocol controller converts the software program, a software correction patch or provisioning data from the server into at least one data burst message. *Page 9, lines 15-17; Page 28, line 17-Page 29, line 4; Page 31, lines 4-10; Figure 4; Figure 6.*

The encryption controller converts the data burst message from an encrypted IP packet by at least one of the following: IP Sec tunneling protocol, Secure Shell (SSH) tunneling protocol, Secure Sockets Layer/Transport Layer Security (SSL/TLS) or point-to-point tunneling protocol

(PPTP). *Page 9, lines 13-15; Page 9, line 18-Page 10, line 1; Page 24, line 2 - Page 26, line 4; Figure 6.*

The RF transceiver converts the wireless message and transmits the wireless message to a wireless mobile station. *Page 11, line 14-17; Page 28, lines 3-16.*

Independent Claim 17

Independent Claim 17 describes - for use in a wireless network - a method for securely transmitting a software program, a software correction patch or provisioning data from a server associated with the wireless network to a wireless mobile station. *Page 21, line 2-Page 23, line 10; Page 31, lines 4-10; Figure 4; Figure 6.*

The method comprises receiving and converting the software program, software correction patch or provisioning data into a data burst message *(Page 9, lines 15-17; Page 11, lines 8-12; Page 28, line 17 - Page 29, line 4; Page 31, lines 4-10; Figure 4; Figure 6)*, converting the data burst message into encrypted IP packets *(Page 12, line 16 - Page 13, line 6)*, converting the encrypted IP packet to a wireless message *(Page 9, lines 13-15; Page 24, line 2 - Page 26, line 4)*, and transmitting the wireless message to the wireless mobile station *(Page 28, lines 3-16)*.

The step of converting the encrypted IP packet into a wireless message comprises converting the encrypted IP packet according to at least one of: IP Sec tunneling protocol, Secure Shell (SSH) tunneling protocol, Secure Sockets Layer/Transport Layer Security (SSL/TLS) or point-to-point

tunneling protocol (PPTP). *Page 9, lines 13-15; Page 9, line18-Page 10, line 1; Page 24, line 2 -*

Page 26, line 4; Figure 6.

Grounds of Rejection to be Reviewed on Appeal

1. Are Claims 1, 3-9, 11-17 & 19-24 obvious over *Bao, Performance evaluation of TCP/RLP Protocol Stack over CDMA Wireless Link,* Wireless Networks 2 (1996) ("Bao") in view of *Gellens, Wireless Device Configuration* (OTASP/OTAPA) *via ACAP* (1999) ("Gellens") in further view of U.S. Patent No. 5,241,598 to *Raith* ("Raith") and U.S. Patent No. 6,609,148 to Salo, *et al.* ("Salo")?

ARGUMENT

Stated Grounds of Rejection

The rejections outstanding against the Claims are as follows:

In Sections 3-7 of the December 12, 2005 Office Action, Claims 1, 3-9, 11-17 & 19-24 were

rejected under 35 U.S.C. § 103(a) as unpatentable over *Bao, Performance evaluation of TCP/RLP*

Protocol Stack over CDMA Wireless Link, Wireless Networks 2 (1996) ("Bao") in view of *Gellens,*

Wireless Device Configuration (OTASP/OTAPA) *via ACAP* (1999) ("Gellens") in further view of

U.S. Patent No. 5,241,598 to *Raith* ("Raith") and U.S. Patent No. 6,609,148 to *Salo, et al.* ("Salo").

Legal Standards

The legal standards for an obviousness[1] rejection are referenced in the footnotes below.

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[1]   The Supreme Court has explained how to apply §103:

Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined.

> *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459, 467 (1966).

Obviousness cannot be inferred from a combination of references without a showing that one of ordinary skill would have been motivated to combine those references:

When prior art references require selective combination ... to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself.... Something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination.

> *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 5 U.S.P.Q.2d 1434, 1438 (Fed.Cir. 1988), *quoting Interconnect Planning Corp. v. Feil*, 227 U.S.P.Q. 543 (Fed.Cir. 1985), *and Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick*, 221 U.S.P.Q. 481 (Fed.Cir. 1984).

Where an obviousness rejection is based on a combination of references, the Examiner must show that one of ordinary skill would have been motivated to combine those references.

> *See In re Nilssen*, 7 U.S.P.Q. 2d 1500 (Fed.Cir. 1988);   *Panduit Corp. v. Dennison Mfg. Co.*, 1 U.S.P.Q. 2d 1593, 1597 (Fed.Cir. 1987); *ACS Hospital Systems v. Montefiore Hospital*, 220 U.S.P.Q. 929 (Fed.Cir. 1984).

While *[a reference]* may be capable of being modified to run the way *[the applicant's]* apparatus is claimed, there must be a suggestion or motivation in the reference to do so. *See In re Gordon*, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.").

> *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed.Cir. 1990).

Analysis of Examiner's Rejection

The cited references are each briefly discussed in relevant part, and then the rejection of each

claim is addressed separately under each ground of rejection.

Bao is drawn to a general study of system performances of a typical CDMA wireless link

using protocol stack proposed by the EIA/TIA/IS-99 standard. The study explores the basic

dynamics between the Transmission Control Protocol (TCP) layer (typically used in wireline

networks) and the Radio Link Protocol (RLP) layer (typically used wireless networks). Specifically,

Bao concludes that the TCP and RLP layers must be carefully chosen due to fluctuations in overall

wireless system performance. Also discussed are relationships between improved performance and

segment size. Bao thus provides a narrow guideline in predicting the performance of TCP/RLP in

wireless communication environments where, for example, the Frame Error Rate (FER) is

significantly higher than those found in typical wireline communication environments. While Bao

shares discrete elements with the present application, Bao fails to include a number of the claimed

elements and functions, as described in detail below.

Gellens is drawn to the Over the Air Service Provisioning (OTASP) and Over the Air

Parameter Administration (OTAPA) via IS-707 using the Application Configuration Access Protocol

(ACAP). OTASP taught by Gellens provides a wireless service subscriber the ability to activate new

wireless services, make changes to an existing service without the intervention of a third party,

establish a user profile, and program ("over the air") items such as the Number Assignment Module

(NAM), the International Mobile Station Identity (IMSI) and any roaming lists. OTASP also

provides authentication key generation and storage. OTAPA, similarly provides a wireless service provider the ability to update NAM, data option parameters, other service provider or manufacturer specific parameters and roaming lists. Gellens teaches that the OTASP and OTAPA specifically require that the CDMA carrier have an IS-707 data services capable network, either a Packet Data Service (IS-707.5) or Quick-Net-Connect (QNC). While Bao shares discrete elements with the present application, Bao fails to include a number of the claimed elements and functions, as described in detail below.

Raith is drawn to a system for resynchronizing a rolling key (or B-key) used as an input to an authentication algorithm executed in a mobile station. The network rolling key input is set to a selected value and the mobile station sets the mobile station rolling key input to the same selected value. The mobile station then sets the mobile station rolling key input to that selected value in response to the command from the network. The mobile station in Raith is capable of communication with a plurality of base stations from multiple cells. While Raith shares a discrete element with the present application, Raith fails to include most of the claimed elements and functions, as described in detail below.

Salo is drawn to a system for remotely accessing subscriber information from an enterprise network. A request to retrieve such information is initiated by inputting an address on a browser interface of the remote access device. The address may take the form of a Hypertext Transfer Protocol Uniform Resource Locator (HTTP URL) and may partially identify the enterprise network that the subscriber is associated with. The remote access devices may interface with wireless and

wireline communication networks. Salo reference using IP Sec tunneling protocol. While Salo

shares discrete elements with the present application, Salo fails to include a number of the claimed

elements and functions, as described in detail below.

Ground of Rejection 1: Claims 1, 3-9, 11-17 & 19-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over *Bao, Performance evaluation of TCP/RLP Protocol Stack over CDMA Wireless Link,* Wireless Networks 2 (1996) ("Bao") in view of *Gellens, Wireless Device Configuration (OTASP/OTAPA) via ACAP* (1999) ("Gellens") in further view of U.S. Patent No. 5,241,598 to *Raith* ("Raith") and U.S. Patent No. 6,609,148 to *Salo, et al.* ("Salo").

These claims are allowable over this combination of references, as discussed below.

Claim 1

Claim 1 requires, among other limitations, a mobile station capable of "receiving at least one

of a software program, a software correction patch and provisioning data from a server associated

with said wireless network" and that the mobile station comprises an encryption conversion

controller that converts the "IP packets from an encrypted format to a decrypted format according

to at least one of: IP Sec tunneling protocol; Secure Shell (SSH) tunneling protocol; Secure Sockets

Layer/Transport Layer Security (SSL/TLS); and point-to-point tunneling protocol (PPTP)."

Absent a highly selective and speculative hindsight reconstruction, the cited references in

support of the rejection do not teach or suggest – alone or in proper combination – a mobile station

having all the required elements of claim 1.

The Examiner proposes that one skilled in the art would begin constructing the claimed

mobile station by first referencing Bao. Bao teaches sending Transmission Control Protocol/Internet

Protocol (TCP/IP) packets over radio using Radio Link Protocol (RLP). Bao, however, fails to

include a number of claimed elements and functions. Yet, the Examiner cites to Bao in support of

its rejection primarily for teaching that it is possible to convert wireless messages to Internet Protocol

(IP) packets over CDMA. Bao lacks any disclosure of uploading or updating any software programs,

software correction patch and provisioning data from a server associated with a wireless network. In fact, Bao is drawn to the basic dynamics between the Transmission Control Protocol (TCP) layer (typically used in wireline networks) and the Radio Link Protocol (RLP) layer (typically used wireless networks). Specifically, after a serious study, Bao simply concludes that the TCP and RLP layers must be carefully chosen due to fluctuations in overall wireless system performance. Bao, p. 236. Bao thus provides a narrowly directed guideline in predicting TCP/RLP performances in wireless communication environments where, for example, the Frame Error Rate (FER) is significantly higher than those found in typical wireline communication environments. *Id.* at 229. The Examiner proposes that after reading Bao, one skilled in the art would just ignore the main focus of Bao (*i.e.*, predicting TCP/RLP performance with respect to FER), learn simply that sending TCP/IP packets over radio using RLP is possible, and then *seek out* Gellens.

The deficiencies of Bao notwithstanding, one skilled in the art would then supposedly *seek out* Gellens as suggested by the Examiner. Gellens focuses on Over the Air Service Provisioning (OTASP) and Over the Air Parameter Administration (OTAPA) via IS-707 using a specific type of provisioning server, an Application Configuration Access Protocol (ACAP) server. Gellens teaches that the OTASP and OTAPA require that the CDMA carrier have an IS-707 data services capable network, either a Packet Data Service (IS-707.5) or Quick-Net-Connect (QNC). *Id.* at 9. ACAP provides a high degree of extensibility, especially in authentication mechanisms, specialized attribute handling, and data management. Gellens, p. 30. By using ACAP, interoperability and integration with a variety of equipment is possible, thus adding new levels of service including integration with future subscriber devices and applications (*e.g.*, email). *Id.* The Examiner seems to propose that one skilled in the art would simply ignore all of Gellens' teachings regarding ACAP, learn only that provisioning is possible over an IP protocol network layer, and then *seek out* yet another source, Raith.

In an attempt to remedy the deficiencies of the first two references, Bao and Gellens, the Examiner proposes that one skilled in the art would *seek out* Raith solely for teaching a multiple cell environment. Raith is drawn to a system where a mobile station is capable of communicating with

a plurality of base stations. The mobile station is thus also capable of communicating from multiple cells. Indeed, Raith discloses a multi-cell system, as the Examiner suggests. Raith, however, teaches a narrowly tailored system that resynchronizes rolling keys used as input among a plurality of inputs to an authentication algorithm executed in a mobile station and in a radio network providing service to the mobile station. Raith, column 7, lines 37-42. Moreover, Raith fails to teach *any* other required elements of the independent claims of the present application. The Examiner seems to propose that one skilled in the art would simply ignore all of Raith's teachings regarding resynchronizing rolling keys and learn only that multi-cell systems are possible. Clearly, the Examiner has *sought out* Raith to selectively combine a <u>single</u> element in an attempt to loosely reconstruct the claimed invention. Nonetheless, the Examiner proposes that after ignoring Raith's teachings, one skilled in the art would then *seek out* Salo.

Even if one of ordinary skill were to undertake the selective modifications described above – and they were somehow successful – the Examiner proposes that one skilled in the art would finally *seek out* Salo for the use of an IP Sec tunneling protocol. Salo does indeed reference using the IP Sec tunneling protocol. Salo, column 13, lines 7-19. Salo, however, is narrowly directed to a computer system comprising a plurality of components, including a data network, an enterprise gateway server, a remote gateway server and a messaging server in which software for enterprise servers converts a plurality of data requests for messaging and collaboration data into a single higher level request. *Id.* at column 3, line 60 - column 4, line 5. Again, the Examiner has sought out a reference to selectively combine a <u>single</u> element in an attempt to loosely reconstruct the claimed invention.

Accordingly, the four cited references fail to teach or suggest - either alone or in combination - a mobile station in communication with a plurality of base stations: (1) capable of receiving at least one of a software program, a software correction patch and provisioning data from a server associated with said wireless network; <u>and</u> (2) comprising an encryption conversion controller that converts IP packets from an encrypted format to a decrypted format according to at least one of: IP

Sec tunneling protocol; Secure Shell (SSH) tunneling protocol; Secure Sockets Layer/Transport

Layer Security (SSL/TLS); and point-to-point tunneling protocol (PPTP), as required by claim 1.

In sum, in order to selectively combine Bao, Gellens, Raith and Salo as the Examiner has

suggested, one of <u>ordinary</u> skill in the art would have to: (1) First, *seek out* Bao, which primarily

seeks to evaluate the performance of TCP/RLP protocol stacks over wireless links, ignore everything

taught by Bao, and simply learn that sending TCP/IP packets over radio using RLP is possible; (2)

Second, *seek out* Gellens, which is directed to OTASP and OTAPA specifically via IS-707 using

ACAP, ignore everything taught by Gellens, and simply learn that provisioning over an IP protocol

network layer is possible; (3) Third, *seek out* still another reference, Raith, for rolling keys used as

input among a plurality of inputs in an authentication algorithm executed in a mobile station and the

radio network that service the mobile station, and disregard all significant teaching within Raith

except that it is possible for mobile stations to communicate from multiple cells; and (4) Finally,

seek out Salo, which is directed to enterprise server software that converts a plurality of data requests

for messaging and collaboration data into a single higher level request, and disregard all of

significant teaching within Salo except for the possibility of using an IP Sec tunneling protocol.

In light of the Examiner's attempt to reconstruct the claimed invention as described above,

it is clear that the Examiner has arbitrarily cited four references in support of the §103 rejection by

selecting discrete elements from each and *prospectively* combining these discrete elements (and

seeking out still others). Thus, absent a highly selective and speculative hindsight reconstruction,

the cited references fail to teach or suggest, alone or in proper combination, a mobile station having

all of the required elements of claim 1.

Moreover, there is no suggestion or motivation within Bao, Gellens, Raith or Salo to cause

one of <u>ordinary</u> skill in the art to undertake such a highly speculative and selective process.

Furthermore, even if one of ordinary skill did undertake such a process, there is <u>no</u> reasonable

expectation that the effort would be successful - much less provide all of the required elements of

claim 1. As explained above, Bao, Gellens, Raith and Salo fail to disclose all the required elements

of claim 1.

Applicant therefore respectfully requests allowance of claim 1 and reversal of the Examiner's rejections.

Claim 3

Claim 3 depends from claim 1, so the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference.

Claim 3 further requires "wherein each of said IP packets comprise IP layer information and an IP packet payload."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claim.

Applicant respectfully requests allowance of claim 3 and reversal of the Examiner's rejections.

Claim 4

Claim 4 ultimately depends from claim 1, so the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference.

Claim 4 further requires "wherein said IP packet payload comprises transmission control protocol (TCP) layer information."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claim.

Applicant respectfully requests allowance of claim 4 and reversal of the Examiner's rejections.

Claim 5

Claim 5 ultimately depends from claim 1, so the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference.

Claim 5 further requires "wherein said IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 5 and reversal of the Examiner's rejections.

Claim 6

Claim 6 ultimately depends from claim 1, so the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference.

Claim 6 further requires "wherein each of said IP packets comprises IP layer information, transmission control protocol (TCP) layer information and a IP packet payload."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 6 and reversal of the Examiner's rejections.

Claim 7

Claim 7 ultimately depends from claim 1, so the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference.

Claim 7 further requires "wherein said IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent

claims.

Applicant respectfully requests allowance of claim 7 and reversal of the Examiner's rejections.

Claim 8

Claim 8 ultimately depends from claim 1, so the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference.

Claim 8 further requires "wherein said data burst message protocol controller is capable of converting said decrypted IP packets to said at least one data burst message according to at least one of: 1) an IS-683-A protocol; 2) a short messaging service (SMS) protocol; and 3) extensible mark-up language (XML) protocol."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 8 and reversal of the Examiner's rejections.

Claim 9

The Examiner has rejected claim 9 under the same rationale as the rejection of claim 1.

Thus, the arguments above with respect to claim 1 apply here, and these arguments are incorporated herein by reference

Furthermore, claim 9 requires, among other limitations, "a system for secure over-the-air administration of a wireless mobile station via a base station in a wireless network . . . " comprising "a data burst message protocol controller capable of receiving and converting said at least one of a software program, a software correction patch and provisioning data into at least one data burst message."

This element requires a data burst message protocol controller that both receives and converts at least one of a software program, a software correction patch and provisioning data into at least one data burst message. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appears

to teach this element as described with relation to all other elements of this claim.

Applicant respectfully requests allowance of claim 9 and reversal of the Examiner's rejections.

Claim 11

Claim 11 depends from claim 9, so the arguments above with respect to claim 9 apply here, and these arguments are incorporated herein by reference.

Claim 11 further requires "wherein said IP packet payload comprises transmission control protocol (TCP) layer information."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claim.

Applicant respectfully requests allowance of claim 11 and reversal of the Examiner's rejections.

Claim 12

Claim 12 ultimately depends from claim 9, so the arguments above with respect to claim 9 apply here, and these arguments are incorporated herein by reference.

Claim 12 further requires "wherein said IP packet payload comprises transmission control protocol (TCP) layer information."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 12 and reversal of the Examiner's rejections.

Claim 13

Claim 13 ultimately depends from claim 9, so the arguments above with respect to claim 9 apply here, and these arguments are incorporated herein by reference.

Claim 13 further requires "IP packet payload comprises an over-the-air service provisioning

payload associated with said at least one data burst message."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 13 and reversal of the Examiner's rejections.

Claim 14

Claim 14 ultimately depends from claim 9, so the arguments above with respect to claims 9 apply here, and these arguments are incorporated herein by reference.

Claim 14 further requires "IP packets comprises IP layer information, transmission control protocol (TCP) layer information and a IP packet payload."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 14 and reversal of the Examiner's rejections.

Claim 15

Claim 15 ultimately depends from claim 9, so the arguments above with respect to claims 9 apply here, and these arguments are incorporated herein by reference.

Claim 15 further requires "wherein the IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 15 and reversal of the Examiner's rejections.

Claim 16

Claim 16 ultimately depends from claim 9, so the arguments above with respect to claims 9 apply here, and these arguments are incorporated herein by reference.

Claim 16 further requires "wherein said data burst message protocol controller is capable of converting said at least one of a software program, a software correction patch and provisioning data to said at least one data burst message according to at least one of: 1) an IS-683-A protocol; 2) a short messaging service (SMS) protocol; and 3) extensible mark-up language (XML) protocol."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 16 and reversal of the Examiner's rejections.

Claim 17

The Examiner has rejected claim 17 under the same rationale as the rejection of claims 1 and 9. Thus, the arguments above with respect to claims 1 and 9 apply here, and these arguments are incorporated herein by reference

Furthermore, claim 17 requires, among other limitations, "a method for securely transmitting to a wireless mobile station at least one of a software program, a software correction patch and provisioning data from a server associated with the wireless network . . . " comprising "receiving and converting the at least one of a software program, a software correction patch and provisioning data into at least one data burst message" and "converting the encrypted IP packets into at least one wireless message according to at least one of: IP Sec tunneling protocol; Secure Shell (SSH) tunneling protocol; Secure Sockets Layer/Transport Layer Security (SSL/TLS); and point-to-point tunneling protocol (PPTP)."

This element requires converting a software program, a software correction path or provisioning data into a data burst message. In addition, the method also requires converting encrypted IP packets into a wireless message by IP Sec tunneling protocol; Secure Shell (SSH)

tunneling protocol; Secure Sockets Layer/Transport Layer Security (SSL/TLS); and

point-to-point tunneling protocol (PPTP). Nothing in Bao, Gellens, Raith or Salo, or any

combination of them, appears to teach this element as described with relation to all other elements

of this claim.

Applicant respectfully requests allowance of claim 17 and reversal of the Examiner's

rejections.

Claim 19

Claim 19 depends from claim 17, so the arguments above with respect to claims 17 apply

here, and these arguments are incorporated herein by reference.

Claim 19 further requires that the step of reusing the plurality of placeholders to replace

detected graphical elements within other portions of the markup language source when such other

portions are selected for display comprises "wherein each of the IP packets comprises IP layer

information and a IP packet payload."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo

disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear

to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 19 and reversal of the Examiner's

rejections.

Claim 20

Claim 20 ultimately depends from claim 17, so the arguments above with respect to claims

17 apply here, and these arguments are incorporated herein by reference.

Claim 20 further requires "wherein the IP packet payload comprises transmission control

protocol (TCP) layer information."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo

disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear

to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 20 and reversal of the Examiner's rejections.

Claim 21

Claim 21 ultimately depends from claim 17, so the arguments above with respect to claim 17 apply here, and these arguments are incorporated herein by reference.

Claim 21 further requires "wherein the IP packet payload comprises an over-the-air service provisioning payload associated with the at least one data burst message."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 21 and reversal of the Examiner's rejections.

Claim 22

Claim 22 ultimately depends from claim 17, so the arguments above with respect to claim 17 apply here, and these arguments are incorporated herein by reference.

Claim 22 further requires "wherein each of the IP packets comprises IP layer information, transmission control protocol (TCP) layer information and a IP packet payload."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 22 and reversal of the Examiner's rejections.

Claim 23

Claim 23 ultimately depends from claim 17, so the arguments above with respect to claim 17 apply here, and these arguments are incorporated herein by reference.

Claim 23 further requires "wherein the IP packet payload comprises an over-the-air service provisioning payload associated with the at least one data burst message."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 23 and reversal of the Examiner's rejections.

Claim 24

Claim 24 ultimately depends from claim 17, so the arguments above with respect to claim 17 apply here, and these arguments are incorporated herein by reference.

Claim 24 further requires "wherein the steps of receiving and converting the at least one of a software program, a software correction patch and provisioning data into at least one data burst message comprises the sub-sep of converting the at least one of a software program, a software correction patch and provisioning data into at least one data burst message according to at least one of: 1) an IS-683-A protocol; 2) a short messaging service (SMS) protocol; and 3) extensible mark-up language (XML) protocol."

Applicant respectfully traverses the Examiner's contention that Bao, Gellens, Raith or Salo disclose such elements. Nothing in Bao, Gellens, Raith or Salo, or any combination of them, appear to teach the elements as described with relation to all other elements of this and the parent claims.

Applicant respectfully requests allowance of claim 24 and reversal of the Examiner's rejections.

Therefore, all claims should be allowed over the combination of Bao, Gellens, Raith and Salo, and the Examiner's obviousness rejections should be reversed.

Grouping of Claims

The claims on appeal <u>do not</u> stand or fall together, as may be seen from the arguments set forth above. Each claim has been argued separately under a separate subheading, and each claim should be considered separately. While the Applicant recognizes that a formal statement regarding the grouping of claims is no longer required, each claim should be considered separately; or at the very least each claim which is argued separately in the preceding sections of this brief should be considered separately. <u>Argument:</u> The fact that the claims use different formulations (as detailed above) and/or have been argued separately, shows that, if their patentability is not considered separately, any adverse decision would show that the limitations of some claims had been unfairly ignored.
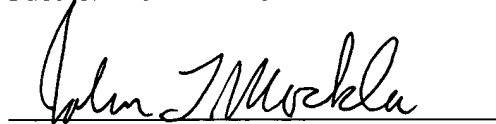
REQUESTED RELIEF

The Board is respectfully requested to reverse the outstanding rejections and return this application to the Examiner for allowance.

Respectfully submitted,

MUNCK BUTRUS P.C.

Date: _5 June 2006_

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DOCKET NO. 2000.10.001.WTO   PATENT
Client No. SAMS01-00090
Customer No. 23990

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sudhindra P. Herle

Serial No.:   09/653,764

Filed: September 1, 2000

For: SYSTEM AND METHOD FOR SECURE OVER-THE-AIR
                               ADMINISTRATION OF A WIRELESS MOBILE STATION

Group No.:   2134

Examiner: Michael J. Simitoski

APPENDIX A -
Claims Appendix

1.   (Previously Presented) A mobile station capable of communicating with a plurality

of base stations in a wireless network and receiving at least one of a software program, a software

correction patch and provisioning data from a server associated with said wireless network, said

mobile station comprising:

an RF transceiver capable of receiving wireless messages from said plurality of base stations

and converting said received wireless messages to a plurality of Internet protocol (IP) packets;

an encryption controller capable of converting said IP packets from an encrypted format to

a decrypted format according to at least one of:

IP Sec tunneling protocol;

Secure Shell (SSH) tunneling protocol;

Secure Sockets Layer/Transport Layer Security (SSL/TLS); and

point-to-point tunneling protocol (PPTP); and

a data burst message protocol controller capable of converting said decrypted IP packets to at least one data burst message.

2.   (Cancelled)

3.   (Previously Presented) The mobile station as set forth in Claim 1 wherein each of said IP packets comprise IP layer information and an IP packet payload.

4.   (Previously Presented) The mobile station as set forth in Claim 3 wherein said IP packet payload comprises transmission control protocol (TCP) layer information.

5.   (Original) The mobile station as set forth in Claim 4 wherein said IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message.

6.   (Previously Presented) The mobile station as set forth in Claim 1 wherein each of said IP packets comprises IP layer information, transmission control protocol (TCP) layer information and a IP packet payload.

7.   (Previously Presented) The mobile station as set forth in Claim 6 wherein said IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message.

8.   (Original) The mobile station as set forth in Claim 1 wherein said data burst message protocol controller is capable of converting said decrypted IP packets to said at least one data burst message according to at least one of: 1) an IS-683-A protocol; 2) a short messaging service (SMS) protocol; and 3) extensible mark-up language (XML) protocol.

9.   (Previously Presented) A system for secure over-the-air administration of a wireless mobile station via a base station in a wireless network, said system capable of transmitting to said wireless mobile station at least one of a software program, a software correction patch and provisioning data from a server associated with said wireless network, said system comprising:

a data burst message protocol controller capable of receiving and converting said at least one of a software program, a software correction patch and provisioning data into at least one data burst message;

an encryption controller capable of converting said at least one data burst message into a plurality of encrypted IP packets according to at least one of:

IP Sec tunneling protocol;

Secure Shell (SSH) tunneling protocol;

Secure Sockets Layer/Transport Layer Security (SSL/TLS); and

point-to-point tunneling protocol (PPTP); and

an RF transceiver capable of converting said encrypted IP packets into at least one wireless message and transmitting said at least one wireless message to said wireless mobile station.

10.   (Cancelled).

11.   (Previously Presented) The system as set forth in Claim 9 wherein each of said IP packets comprises IP layer information and a IP packet payload.

12.   (Previously Presented) The system as set forth in Claim 11 wherein said IP packet payload comprises transmission control protocol (TCP) layer information.

13.   (Original) The system as set forth in Claim 12 wherein said IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message.

14.   (Previously Presented) The system as set forth in Claim 9 wherein each of said IP packets comprises IP layer information, transmission control protocol (TCP) layer information and a IP packet payload.

15.   (Original) The system as set forth in Claim 14 wherein the IP packet payload comprises an over-the-air service provisioning payload associated with said at least one data burst message.

16.   (Original) The system as set forth in Claim 9 wherein said data burst message protocol controller is capable of converting said at least one of a software program, a software correction patch and provisioning data to said at least one data burst message according to at least one of: 1) an IS-683-A protocol; 2) a short messaging service (SMS) protocol; and 3) extensible mark-up language (XML) protocol.

17.   (Previously Presented) For use in a wireless network, a method for securely

transmitting to a wireless mobile station at least one of a software program, a software correction

patch and provisioning data from a server associated with the wireless network, the method

comprising the steps of:

receiving and converting the at least one of a software program, a software correction patch

and provisioning data into at least one data burst message;

converting the at least one data burst message into a plurality of encrypted IP packets;

converting the encrypted IP packets into at least one wireless message according to at least

one of:

IP Sec tunneling protocol;

Secure Shell (SSH) tunneling protocol;

Secure Sockets Layer/Transport Layer Security (SSL/TLS); and

point-to-point tunneling protocol (PPTP); and

transmitting the at least one wireless message to the wireless mobile station.

18.   (Cancelled).

19.   (Previously Presented) The method as set forth in Claim 17 wherein each of the IP

packets comprises IP layer information and a IP packet payload.

20.   (Previously Presented) The method as set forth in Claim 19 wherein the IP packet

payload comprises transmission control protocol (TCP) layer information.

21.   (Original) The method as set forth in Claim 20 wherein the IP packet payload comprises an over-the-air service provisioning payload associated with the at least one data burst message.

22.   (Previously Presented) The method as set forth in Claim 17 wherein each of the IP packets comprises IP layer information, transmission control protocol (TCP) layer information and a IP packet payload.

23.   (Original) The method as set forth in Claim 22 wherein the IP packet payload comprises an over-the-air service provisioning payload associated with the at least one data burst message.

24.   (Original) The method as set forth in Claim 17 wherein the steps of receiving and converting the at least one of a software program, a software correction patch and provisioning data into at least one data burst message comprises the sub-sep of converting the at least one of a software program, a software correction patch and provisioning data into at least one data burst message according to at least one of: 1) an IS-683-A protocol; 2) a short messaging service (SMS) protocol; and 3) extensible mark-up language (XML) protocol.

DOCKET NO. 2000.10.001.WT0   PATENT

Client No. SAMS01-00090

Customer No. 23990

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sudhindra P. Herle

Serial No.:   09/653,764

Filed: September 1, 2000

For: SYSTEM AND METHOD FOR SECURE OVER-THE-AIR ADMINISTRATION OF A WIRELESS MOBILE STATION

Group No.:   2134

Examiner: Michael J. Simitoski

APPENDIX B -

Copy of Formal Drawings

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Sudhindra P. Herle
Serial No.:	09/653,764
Filed:	September 1, 2000
For:	SYSTEM AND METHOD FOR SECURE OVER-THE-AIR ADMINISTRATION OF A WIRELESS MOBILE STATION
Group No.:	2134
Examiner:	Michael J. Simitoski

APPENDIX C -

Copy of Patent Application No.: 10/034,394 As Originally Filed

SYSTEM AND METHOD FOR SECURE OVER-THE-AIR ADMINISTRATION OF A WIRELESS MOBILE STATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Sudhindra P. Herle
Serial No.:	09/653,764
Filed:	September 1, 2000
For:	SYSTEM AND METHOD FOR SECURE OVER-THE-AIR ADMINISTRATION OF A WIRELESS MOBILE STATION
Group No.:	2134
Examiner:	Michael J. Simitoski

APPENDIX E -

Related Proceedings Appendix

Not Applicable – To the best knowledge and belief of the undersigned attorney, there are none.

DOCKET NO. 2000.10.001.WT0
Client No. SAMS01-00090
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sudhindra P. Herle

Serial No.:   09/653,764

Filed: September 1, 2000

For: SYSTEM AND METHOD FOR SECURE OVER-THE-AIR
                          ADMINISTRATION OF A WIRELESS MOBILE STATION

Group No.:   2134

Examiner: Michael J. Simitoski

APPENDIX D -

Evidence Appendix

Not Applicable – No evidence outside the prosecution history is relied upon.